

ALCOHOLIC BEVERAGES DIVISION[185]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 123.10, the Alcoholic Beverages Division hereby gives Notice of Intended Action to amend Chapter 4, “Liquor Licenses—Beer Permits—Wine Permits,” Iowa Administrative Code.

Paragraph 4.6(5)“a” prohibits beer from being consumed on the premises of a class “C” beer permit holder, and paragraph 4.6(5)“h” describes the limited purposes for which an original container shall be opened. The proposed amendments to paragraphs 4.6(5)“a” and “h” will allow beer to be consumed on the premises of a class “C” beer permit holder for a tasting in accordance with rule 185—16.7(123) and will allow an original container to be opened for a tasting.

In September 2015, the Alcoholic Beverages Division drafted new administrative rules intended to implement 2015 Iowa Acts, Senate File 456, section 1, as amended by Senate File 510, section 14, which allowed class “C” beer permit holders to fill and sell beer in a container other than the original container, otherwise known as a growler, subject to the administrative rules of the Alcoholic Beverages Division. Stakeholders were consulted during the drafting process, and upon completion of the drafting, the draft of new rule 185—4.6(123) was distributed to stakeholders for input. Recommendations regarding allowable sizes and shapes of growlers, sanitation requirements, and the ability to prefill growlers were considered. The drafted administrative rules were submitted, and Notice of Intended Action was published in the November 25, 2015, Iowa Administrative Bulletin as **ARC 2255C**. Stakeholders were again offered the opportunity to provide comment during the 20-day comment period. No comments were received. The administrative rules were then Adopted and Filed and published as **ARC 2382C** in the February 3, 2016, Iowa Administrative Bulletin, with an effective date of March 9, 2016.

In June 2016, stakeholders approached the Alcoholic Beverages Division with concerns that new rule 185—4.6(123) prevented class “C” beer permit holders from providing a taste of product to a consumer prior to the filling, sealing, and selling of a growler.

Upon review, the Alcoholic Beverages Division determined that current paragraph 4.6(5)“a” prevents class “C” beer permit holders from being able to serve a taste of beer to consumers under any circumstances, including prior to the filling, sealing, and selling of a growler. The proposed amendment to paragraph 4.6(5)“a” removes that restriction while retaining protections against improper consumption.

The proposed amendment to paragraph 4.6(5)“h” is necessary in order to allow an original container to be opened for the purpose of a tasting in addition to the purpose of filling or refilling a growler. The proposed amendment to paragraph 4.6(5)“h” also removes the restriction that only the permittee or the permittee’s employees may open an original container, allowing an industry member conducting a tasting on the premises of a class “C” beer permit holder to also open original containers as part of the tasting.

Stakeholders were consulted during the drafting of the proposed amendments. The proposed amendments were then circulated to stakeholders prior to the submission of this Notice.

Any person or agency may submit written comments concerning the proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.

3. Indicate the general content of a requested oral presentation.
4. Be addressed to Tyler Ackerson, Alcoholic Beverages Division, 1918 S.E. Hulsizer Road, Ankeny, Iowa 50021; Internet e-mail address: Ackerson@iowaabd.com.
5. Be received by the Alcoholic Beverages Division no later than 4:30 p.m. on Tuesday, September 6, 2016.

A meeting to hear requested oral presentations is scheduled for Friday, September 9, 2016, at 10 a.m. in the board room at the Alcoholic Beverages Division, 1918 S.E. Hulsizer Road, Ankeny, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

These amendments do not provide for waivers in specified situations. An agencywide waiver provision is provided in 185—Chapter 19.

After analysis and review of the rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 123.

The following amendments are proposed.

ITEM 1. Amend paragraph **4.6(5)“a”** as follows:

a. Beer shall ~~not~~ only be consumed on the premises of a class “C” beer permit holder for a tasting in accordance with rule 185—16.7(123).

ITEM 2. Amend paragraph **4.6(5)“h”** as follows:

h. An original container shall only be opened ~~by the permittee or the permittee’s employees on the licensed premises~~ for the limited ~~purpose~~ purposes of filling or refilling a growler as provided in this rule, or for a tasting in accordance with rule 185—16.7(123).